

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ISAAC GARDNER,)	
)	
Petitioner,)	
vs.)	NO. CIV-07-1329-HE
)	
JUSTIN JONES, ¹)	
)	
Respondent.)	

ORDER

Petitioner Isaac Gardner, a state inmate appearing pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pursuant to 28 U.S.C. § 636(b)(1)(B), this matter was referred to Magistrate Judge Valerie K. Couch. Petitioner subsequently filed a motion for an evidentiary hearing [Doc. #9] and a motion to set aside his conviction and sentence [Doc. #31]. The magistrate judge recommended that the petition for a writ of habeas corpus and both motions be denied.

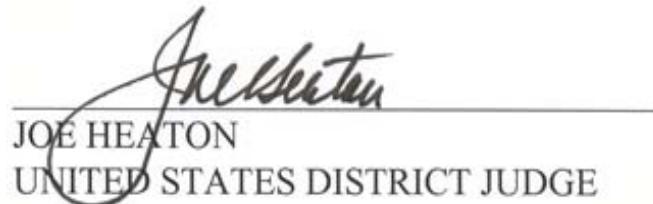
Petitioner filed an objection to the Report and Recommendation. It does not dispute or contend with the Magistrate Judge's treatment of the three issues initially raised by petitioner in his §2254 petition. Rather, his objection essentially states or restates the contentions anticipated or identified by the Magistrate Judge — insufficiency of the evidence and/or actual innocence — but suggests no basis for avoiding the Magistrate Judge's conclusions with respect to the standards applicable to those requests.

¹*The magistrate judge substituted Justin Jones, a state officer and Director of the Oklahoma Department of Corrections, as the proper respondent in this case and the State of Oklahoma was dismissed as a respondent.*

Having conducted a de novo review and after liberally construing petitioner's objections, the court concludes, substantially for the reasons set out by the Magistrate Judge in the Report and Recommendation, that petitioner is not entitled to relief. Accordingly, the court **ADOPTS** the Report and Recommendation [Doc. #45] and **DENIES** petitioner's request for a writ of habeas corpus [Doc. #1], his motion for evidentiary hearing [Doc. #9], and his motion to set aside the conviction and sentence [Doc. #31].

IT IS SO ORDERED.

Dated this 19th day of September, 2008.



JOE HEATON
UNITED STATES DISTRICT JUDGE